

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JOSE LOUIS TORRES OSORIO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-22-210-C
	)	
THE GEO GROUP, INC.,	)	
	)	
Defendant.	)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff brought the present action pursuant to 42 U.S.C. § 1983, seeking recompense for alleged violations of certain federal and state statutory rights while incarcerated at Defendant’s facility in Hinton, Oklahoma. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this action was referred to United States Magistrate Judge Gary M. Purcell. Judge Purcell entered a Report and Recommendation (“R&R”) on April 27, 2022. Following screening pursuant to 28 U.S.C. §§ 1915(e)(20)(B) and 1915A, Judge Purcell recommended dismissal of Plaintiff’s Complaint for failure to state a claim for relief. Plaintiff filed an Objection to the R&R and the Court considers the matter *de novo*.

The facts and law are accurately set out in the R&R and there is no purpose to be served in repeating them yet again. As Judge Purcell noted, Plaintiff seeks to recover wages earned as a result of his “employment” with Defendant. Judge Purcell recommended dismissal, noting Tenth Circuit law is clear that Plaintiff was not an

“employee.” In his Objection, Plaintiff does not attempt to distinguish the case law set out by Judge Purcell. Rather, Plaintiff directs the Court to law from other Circuits which he argues entitles him to relief. Even if Plaintiff is correct and other Circuits have found prisoners to be “employees,” the Court is bound by the law of this Circuit and as Judge Purcell stated, that law holds Plaintiff is not an “employee”. Thus, he is not entitled to minimum wage and his case must be dismissed for failure to state a claim for relief.

Plaintiff has also filed a motion for appointment of counsel. Because the Court has found Plaintiff has failed to state a claim for relief, the request for counsel will be denied.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 10). Plaintiff’s Complaint is DISMISSED without prejudice for failure to state a claim for relief. Plaintiff’s Motion to Request Counsel (Dkt. No. 3) is DENIED. A separate judgment shall issue.

IT IS SO ORDERED this 7th day of June 2022.

  
ROBIN J. CAUTHRON  
United States District Judge